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APPL. No: 09/933,708
ATTORNEY DOCKET: 54719.000028

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application Of:)
)
Thomas PICCARIELLO et al.) Group Art Unit: 1653
)
Application Number: 09/933,708) Examiner: Jeffrey E. Russel
)
Filed: August 22, 2001)
)
For: ACTIVE AGENT DELIVERY SYSTEMS AND METHODS FOR PROTECTING
AND ADMINISTERING ACTIVE AGENTS

MAIL STOP PATENT APPLICATION

Commissioner for Patents
Alexandria, VA 22313-1450
Sir:

Response To Restriction Requirement and a Five Month Extension of Time

REQUEST FOR EXTENSION OF TIME

Applicants respectfully request a five-month extension of time under 37 C.F.R. § 1.136(a) for responding to the Office Action mailed on July 3, 2003, in the above-captioned patent application. Accordingly, it is respectfully requested that the time for response be extended up to January 5, 2004 as January 3, 2003 fell on a Saturday. A check is enclosed to cover the \$1,005.00 fee for the five-month extension of time.

REMARKS

01/08/2004 AAD0F01 00000043 09933708
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Responsive to the Office Action mailed July 3, 2003, please consider the following remarks. The Examiner has designated the following as separate inventions:

1. Claims 2, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76, 78, 80, 82-89, 91, 93, 95, 97, 99, 101-103, 105, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, and 134 are patentably distinct from each other because of their materially different structures and functions;

Election With Traverse

Applicants hereby elect to prosecute the invention of claim 75 directed to anti-virals, with zidovudine (Claim 76) as the elected species with traverse. Applicants acknowledge that species are patentably distinct, but believe no undue burden would be placed on the Examiner to search the class of anti-virals as art relevant to one anti-viral would likely be encompassed in the same search although not necessarily determinative for another anti-viral. It is submitted that an important advantage in pursuing just one application encompassing the generic class of pharmaceuticals in that the examination work of the Patent and Trademark Office would be simplified, insofar as duplication of searching effort would be eliminated.

In view of the above remarks, it is thus respectfully requested that the restriction requirement be withdrawn and that all claims be allowed to be prosecuted in the same application. Again should the Examiner make the restriction final, Applicants urge that it would not be burdensome to search the recited class of anti-virals. In the event that the requirement is made final, and in order to comply with 37 C.F.R. § 1.143, Applicant reaffirms the election of zidovudine as the elected anti-viral, with claims 75 and 76 considered generic to the election. Claims 1-8, 13-17, 20-34, 36-74 and 77-134 are held in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims with the understanding that upon allowance of a generic claim applicant will be entitled to consideration of claims to additional species.

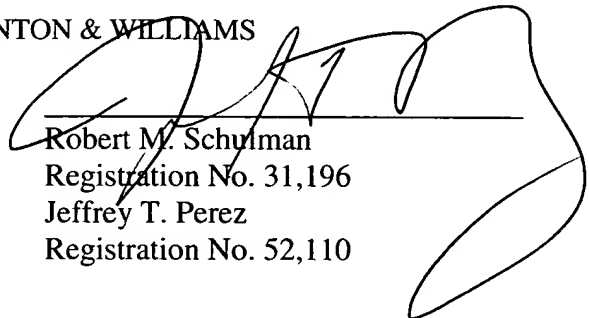
The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required now or hereafter, or credit any overpayment, to Deposit Account No. 50-0206.

Respectfully submitted,

HUNTON & WILLIAMS

January 5, 2004

By:



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